



# STATE OF IOWA

CHESTER J. CULVER, GOVERNOR  
PATTY JUDGE, LT. GOVERNOR

DEPARTMENT OF HUMAN SERVICES  
KEVIN W. CONCANNON, DIRECTOR

July 18, 2008

## GENERAL LETTER NO. 16-G(1)-2

ISSUED BY: Bureau of Protective Services, Division of Children and Family Services

SUBJECT: Employees' Manual, Title 16, Chapter G(1), **DEPENDENT ADULT ABUSE INTAKE**, Contents (page 1), revised; pages 1 through 7, 9, 10, 11, 20, 21, and 25 through 28, revised.

### Summary

This chapter is revised to reflect changes in policy pursuant to changes in 2008 Iowa Acts, House File 2591, effective July 1, 2008, which affect intake on dependent adult abuse.

The Department of Inspections and Appeals (DIA) will now have responsibility for evaluating reports of dependent adult abuse committed by staff members or employees in the following programs, in addition to health care facilities defined in Iowa Code section 135C and hospitals defined in 135B:

- ◆ Elder group homes defined in Iowa Code section 231B.1;
- ◆ Assisted living programs certified in Iowa Code section 231C.3; and
- ◆ Adult day service programs defined in Iowa Code section 231D.1.

DHS will continue to evaluate allegations of abuse when the person suspected of abusing a dependent adult is not a staff member or employee or the dependent adult is out of the facility or program and the caretaker is not a staff member or employee. DHS will also continue to assess the immediate threat to the physical safety of dependent adults after hours, on weekends and on holidays.

The allegation of "sexual exploitation of a dependent adult in a health care facility" has been changed to "sexual exploitation of a dependent adult by a caretaker".

### Effective Date

July 1, 2008



### **Material Superseded**

Remove the following pages from Employees' Manual, Title 16, Chapter G(1), and destroy them:

<u>Page</u>	<u>Date</u>
Contents (page 1)	April 11, 2008
1-7, 9-11, 20, 21, 25-28	April 11, 2008

### **Additional Information**

Refer questions about this general letter to your area service administrator.



---

	<u>Page</u>
<b>Overview.....</b>	<b>1</b>
Legal Basis .....	2
Definitions .....	3
Statewide Centralized Intake.....	10
<b>Source of Reports.....</b>	<b>11</b>
Mandatory Reporters.....	11
Responsibilities of Mandatory Reporters .....	12
Privileges of Mandatory Reporters .....	13
Penalties of Mandatory Reporters .....	13
Required Information .....	13
Information Provided to Mandatory Reporter.....	14
Permissive Reporters.....	15
Mandatory Reporters Reporting Permissively .....	15
<b>Intake Process .....</b>	<b>16</b>
Form 470-0657, <i>Dependent Adult Abuse Intake</i> .....	16
Criteria for Accepting a Report.....	17
Allegations.....	17
What Is Not Dependent Adult Abuse.....	22
Rejected Intakes/Information and Referral .....	22
<b>In-Depth Intakes .....</b>	<b>24</b>
Intake on Dependent Adults Who Have Died .....	25
<b>Facilities and Programs Where DIA Evaluates Allegations .....</b>	<b>25</b>
Allegations in DHS-Operated Facilities.....	26
Determining if a Facility Is Licensed by DIA .....	27
Allegations Received After Hours or on Weekends or Holidays .....	27
DHS Responsibilities for Allegations in Facilities Where DIA Evaluates.....	28
<b>Case Assignment.....</b>	<b>28</b>
Transfer of a Case to Another Department Office.....	29
Courtesy Interviews .....	29
Abuse Occurred in Another State and Dependent Adult Lives in Iowa .....	29
Dependent Adult Resides Out of State but Is Currently in Iowa.....	30
Dependent Adult Out of State, Person Alleged Responsible in Iowa .....	30
Allegations Involving Department Employees.....	30
Assignments and Time Lines .....	31



## **Overview**

**Legal reference:** 441 IAC 176.3(235B); Iowa Code sections 235B.1, 235B.3, 235B.5;  
2008 Iowa Acts, House File 2591

The primary purpose of intake is to obtain available and pertinent information regarding an allegation of dependent adult abuse. Your ability to gather this information is critical to the evaluation and assessment process and often the first step taken to initiate safeguards for dependent adults at risk. The intent of the law is to accept and process valid reports but not to infringe on an adult's constitutional right to privacy.

Be flexible and able to communicate effectively with callers by asking questions, recording necessary information, and discriminating between significant and extraneous information. A thorough intake will provide:

- ◆ Protection for a dependent adult.
- ◆ Necessary information for the assigned worker.
- ◆ Information and referral.
- ◆ Improved public awareness of the Department's roles, responsibilities, and limitations.

Protection for dependent adults in Iowa is provided by:

- ◆ Encouraging the reporting of suspected cases of abuse,
- ◆ The prompt and thorough evaluation or assessment of the reports,
- ◆ Intervening to provide protection to abused dependent adults, and
- ◆ Arranging for services for abused dependent adults.

Dependent adult abuse that occurs in the community is evaluated or assessed by the Department of Human Services (referred to in this manual as "the Department").

Dependent adult abuse that occurs in any of the following settings is evaluated by the Department of Inspections and Appeals:

- ◆ Health care facility as defined in Iowa Code section 135C.1
- ◆ Hospital as defined in Iowa Code section 135B.1
- ◆ Elder group home as defined in Iowa Code section 231B.1
- ◆ Assisted living program certified under Iowa Code section 231C.1
- ◆ Adult day program as defined in Iowa Code section 231D.1

Adults have constitutional rights guaranteeing certain freedoms. The Department strives to arrange services in the least restrictive manner possible. The goal is to balance a person's right to personal freedom while attempting to protect adults who are unable to protect themselves.



This manual is divided into the following sections:

- ◆ [Source of reports](#)
- ◆ [Intake process](#)
- ◆ [In-depth intakes](#)
- ◆ [Health care facilities](#)
- ◆ [Case assignment](#)

### **Legal Basis**

Authority for the reporting and evaluation or assessment of dependent adult abuse and operation of the Central Abuse Registry is derived from the following sources:

- ◆ Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, provides funding for various social services, including protective services, through Social Services Block Grant funding.
- ◆ Iowa Code Chapter 217, "Department of Human Services," establishes the purpose and general duties of the Department of Human Services.
- ◆ Iowa Code Chapter 235B, "Adult Abuse," became effective January 1, 1983. This legislation authorizes the Department to accept reports of suspected dependent adult abuse, evaluate and assess reports, complete an assessment of needed services, and make appropriate referrals for services.
- ◆ Legislation in 2008 Iowa Acts, House File 2591, which became effective July 1, 2008, enacts a new Iowa Code chapter, 235E, which authorizes the Department of Inspections and Appeals to evaluate reports of suspected abuse of dependent adults residing or receiving services in:
  - Health care facilities defined in section 135C.1,
  - Hospitals defined in section 135B.1,
  - Elder group homes defined in section 231B.1,
  - Assisted living programs certified under 231C.3, and
  - Adult day service programs defined in section 231D.1.
- ◆ Iowa Code Chapter 234, "Child and Family Services," gives the Director of the Department the authority to use funds for protective services.
- ◆ 441 Iowa Administrative Code Chapter 176, "Dependent Adult Abuse," explains the program in greater detail.



## **Definitions**

**Legal reference:** 441 IAC 176.1(235B); Iowa Code Chapters 235B and 633; Iowa Code 702.4, 702.9, 702.17, 708.1, 708.7, 709.1A, 709.15, 709.21, and 714.1; and *Black's Law Dictionary*, Seventh and Eighth Editions, West Group, 1999 and 2004, define legal terms.

**“Adult abuse”** means the deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, and other care necessary to maintain a dependent adult’s life or health **as a result of the acts or omissions of the dependent adult**.

“Adult abuse” includes any of the following **as a result of the willful or negligent acts or omissions of a caretaker**:

- ♦ Physical injury to, or injury which is at variance with the history given of the injury, or unreasonable confinement, unreasonable punishment, or assault of a dependent adult.
- ♦ The commission of a sexual offense with or against a dependent adult.
- ♦ Exploitation of a dependent adult, which means the act or process of taking unfair advantage of a dependent adult or the misuse of the adult’s physical or financial resources for one’s own personal or pecuniary profit, without the informed consent of the dependent adult, including theft, by the use of undue influence, harassment, duress, deception, false representation, or false pretense.
- ♦ The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, or other care necessary to maintain a dependent adult’s life or health. [Iowa Code section 235B.2, paragraph 5(a)]

**“Assault”** means the same as defined in Iowa Code section 708.1.

**“Assessment”** means the process of collecting and examining information concerning a dependent adult who allegedly has been denied critical care **due to the acts or omissions of the dependent adult**, to determine the circumstances of the adult. There is no caretaker responsible for the abuse and these founded reports are not kept on the Central Abuse Registry. (Evaluations are completed on dependent adults when the abuse is the result of actions of a caretaker.) (Iowa Code 235B.3, paragraph 1)

“Assessment” also means the completed report when the abuse, committed by a caretaker is “confirmed, not registered,” because the physical abuse or denial of critical care was minor, isolated, and unlikely to reoccur. These reports are also not kept in the Central Abuse Registry.



**“Brothel”** is any building, structure, part of a building or structure, or other place offering shelter or seclusion, which is principally or regularly used for the purpose of prostitution, with the consent or connivance of the owner, tenant, or other person in possession of it. (Iowa Code section 702.4)

**“Capacity to consent”** is a non-legal judgment of a person’s functional ability to make decisions. If it is determined a person lacked the capacity to consent, that does not mean the person is legally incompetent.

**“Caretaker”** means a related or unrelated person who has the responsibility for the protection, care, or custody of a dependent adult because of assuming the responsibility voluntarily, by contract, through employment, or by order of the court. (Iowa Code section 235B.2)

**“Collateral sources”** means any person or agency that is presently providing service to the dependent adult, either in a professional or paraprofessional capacity, including, but not limited to, doctors, counselors, and visiting nurses. [441 IAC 176.1(235B)]

**“Confidentiality”** means the withholding of information from any manner of communication, public or private. [441 IAC 176.1(235B)]

**“Confinement”** means the act of imprisoning or restraining someone; the state of being imprisoned or restrained. (*Black’s Law Dictionary*, Eighth Edition, West Group, 2004)

**“Counselor or therapist”** means a physician, psychologist, nurse, professional, counselor, social worker, marriage or family therapist, alcohol or drug counselor, member of the clergy, or any other person, whether or not licensed or registered by the state, who provides or purports to provide mental health services. (Iowa Code section 709.15)

NOTE: This definition includes staff in residential facilities who have the title of counselor, social worker, marriage or family therapist, alcohol or drug counselor, member of the clergy, or any other person, whether or not licensed or registered by the state, who provides or purports to provide mental health services.

**“Department”** means the Iowa Department of Human Services and includes the local and central offices of the Department. [Iowa Code section 235B.2; 441 IAC 176.1(235B)]



**“Denial of critical care”** means either a dependent adult or a caretaker of a dependent adult has denied a dependent adult the minimum food, shelter, clothing, supervision, physical or mental health care, or other care necessary to maintain a dependent adult’s life or health. (Iowa Code section 235B.2)

Denial of critical care exists when:

- ♦ The dependent adult’s basic needs are denied or ignored to such an extent that there is immediate or potential danger of the dependent adult suffering injury or death.
- ♦ There is a denial of or a failure to provide the mental health care necessary to adequately treat the dependent adult’s serious social maladjustment.
- ♦ There is a gross failure of the caretaker to meet the emotional needs of the dependent adult necessary for normal functioning.
- ♦ There is a failure of the caretaker to provide for the proper supervision of the dependent adult. [441 IAC 176.1(235B)]

**“Dependent adult”** means a person 18 years of age or older who is unable to protect the person’s own interests or unable to perform adequately or obtain services necessary to meet essential human needs, as a result of a physical or mental condition which requires assistance from another. [Iowa Code section 235B.2; 441 IAC 176.1(235B)]

**“Dependent adult abuse information”** means any or all individually identified report data, evaluation data, assessment data, and disposition data maintained by the Registry or by any office of the Department. (Iowa Code section 235B.5)

**“Evaluation”** means the process of collecting and examining information concerning a dependent adult who allegedly has been abused or denied critical care **due to the acts or omissions of the caretaker**, for the purpose of determining the circumstances of the dependent adult. The information is used to write the dependent adult abuse report.

(“Assessment” occurs when the abuse is the result of actions of the dependent adult or a report of physical abuse or denial of critical care committed by a caretaker that is confirmed, not registered because the abuse was minor, isolated and not likely to reoccur.) (Iowa Code sections 235B.1 and 235B.3)



**“Evaluation or assessment data”** means information pertaining to the evaluation or assessment of report data, including:

- ◆ The reason the adult is dependent.
- ◆ The legal reason the alleged abuse perpetrator is considered the dependent adult’s caretaker or if there is no caretaker and the dependent adult is considered responsible for the alleged abuse.
- ◆ Information as to the nature, extent, and cause of the abuse.
- ◆ The dependent adult’s home environment and relationships with the caretaker, if there is a caretaker.
- ◆ Information related to the allegation of abuse and whether or not the evaluation or assessment of information confirmed or refuted the allegation.
- ◆ The findings of the evaluation or assessment and factors illustrating how the conclusions were reached. (Iowa Code 235B.1 and 235B.3)

**“[Exploitation](#)”** means the same as defined in Iowa Code section 235B.2.

**“Family or household member”** means a spouse, a person cohabiting with the dependent adult, a parent, or a person related to the dependent adult by consanguinity or affinity, but does not include children of the dependent adult who are less than 18 years of age. (Iowa Code section 235B.2) (Law enforcement officers may offer professional counseling to a family or household member when they are remaining with a victim of criminal dependent adult abuse.)

**“Guardian”** means the person appointed by the court to have custody of the person (ward) under provisions of the Probate Code. (Iowa Code Chapter 633)

**“Health practitioner”** means a licensed physician or surgeon, osteopath, osteopathic physician or surgeon, dentist, optometrist, podiatrist, or chiropractor; a resident or intern in any or those professions; a licensed dental hygienist; a registered nurse or licensed practical nurse; or a basic emergency medical care provider certified under Iowa Code section 147.161 or an advanced emergency medical care provider under Iowa Code section 147.A6. [Iowa Code sections 235B.3(2)(e)(5); and 232.68(5)]

**“Immediate danger to health or safety”** means a situation in which death or severe bodily injury could reasonably be expected to occur without intervention. (Iowa Code section 235B.2)

**“Individual employed as an outreach person”** means a person who, in the course of employment, makes regular contacts with dependent adults regarding available community resources. [441 IAC 176.1(235B)]



**“Intent”** means the state of mind accompanying an act, especially a forbidden act. While motive is the inducement to determinate to do it, when the intent to do the act that violates the law exists, motive becomes immaterial. (*Black’s Law Dictionary*, Eighth Edition, West Group, 2004)

**“Mandatory reporter”** means a person who is required to make a report of suspected dependent adult abuse. Social workers and persons who in the course of employment examine, attend, counsel, or treat a dependent adult and reasonably believe a dependent adult has suffered abuse are mandatory reporters. (See [Mandatory Reporters](#).) (Iowa Code section 235B.3)

**“Mentally incapacitated”** means that a person is temporarily incapable of apprising or controlling the person’s own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance. A person who is impaired by an intoxicant, by mental illness or deficiency, or by physical illness or disability to the extent that personal decision-making is impossible is mentally incapacitated. (Iowa Code section 709.1A; *Black’s Law Dictionary*, Seventh Edition, 1999)

**“Nudity”** means the full or partial showing of any part of the human genitals or pubic area or buttocks or any part of the nipple of the breast of a female with less than opaque covering. (Iowa Code section 709.21, paragraph 2)

**“Permissive reporter”** means any person other than a mandatory reporter who believes that a dependent adult has been abused and makes a report of suspected dependent adult abuse. This includes mandatory reporters making reports outside of employment responsibilities. Employees of financial institutions may report suspected financial exploitation of a dependent adult, but are not considered mandatory reporters. (Iowa Code section 235B.3)

**“Photograph or film”** means any photograph, motion picture film, videotape or any other recording or transmission of the image of a person. (Iowa Code section 709.21, paragraph 2)

**“Physical abuse”** means physical injury to, or injury which is at variance with the history given of the injury, or unreasonable confinement, unreasonable punishment or assault of a dependent adult. (Iowa Code 235B.2)

**“Physical injury”** means damage to any bodily tissue to the extent the tissue must undergo a healing process in order to be restored to a sound and healthy condition, or damage to any bodily tissue to the extent the tissue cannot be restored to a sound and healthy condition, or damage to any bodily tissue which results in the death of the person who has sustained the damage.



**“Report data”** means information pertaining to any occasion involving or reasonably believed to have involved dependent adult abuse, including:

- ◆ The name and address of the dependent adult and of the caretaker, if any.
- ◆ The age of the dependent adult and the reason the reporter believes the adult is dependent.
- ◆ The nature and extent of the abuse, including evidence of any abuse.
- ◆ Any other information believed to be helpful in establishing the cause of the abuse or the identity of the person or persons responsible for the abuse.
- ◆ Any information contained in the completed evaluation or assessment report.

**“Sexual abuse”** means the commission of a sexual offense under Iowa Code sections 709, 726.2 or 235B.2, with or against a dependent adult as a result of the willful or negligent acts or omissions of a caretaker, including the following:

- ◆ First-degree sexual abuse (Iowa Code section 709.2)
- ◆ Second-degree sexual abuse (Iowa Code section 709.3)
- ◆ Third-degree sexual abuse (Iowa Code section 709.4)
- ◆ Detention in a brothel (Iowa Code section 709.7)
- ◆ Indecent exposure (Iowa Code section 709.9)
- ◆ Assault with intent to commit sexual abuse (Iowa Code section 709.11)
- ◆ Sexual exploitation by a counselor or therapist (Iowa Code section 709.15)
- ◆ Invasion of privacy, nudity (Iowa Code section 709.21)
- ◆ Incest (Iowa Code section 726.2)
- ◆ Sexual exploitation of a dependent adult by a caretaker (Iowa Code section 235B.2)

**“Sex act”** means any sexual contact between two or more persons by:

- ◆ Penetration of the penis into the vagina or anus;
- ◆ Contact between the mouth and genitalia or by contact between the genitalia of one person and the genitalia or anus of another person;
- ◆ Contact between the finger or hand of one person and the genitalia or anus of another person, except in the course of examination or treatment by a person licensed for the practice of medicine and surgery, chiropractic, or nursing; or
- ◆ Use of artificial sexual organs or substitutes for sexual organs in contact with the genitalia or anus. (Iowa Code section 702.17)



**“Sexual exploitation of a dependent adult by a caretaker”** means any consensual or nonconsensual sexual conduct with a dependent adult for the purpose of arousing or satisfying the sexual desires of the caretaker or dependent adult, which includes but is not limited to

- ◆ Kissing;
- ◆ Touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or
- ◆ A sex act, as defined in Iowa Code section 702.17.

Sexual exploitation does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch or hug between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses. [Iowa Code section 235B.2(5)a(3)]

**“Unreasonable”** means not guided by reason; irrational or capricious. (*Black’s Law Dictionary*, Eighth Edition, West Group 2004)

**“Unreasonable confinement or unreasonable punishment”** means any legally unauthorized, medically unwarranted or improperly administered restriction of physical movement, locking up, binding, chaining, or sedative medicating of a dependent adult.

### **Statewide Centralized Intake**

**Legal reference:** Iowa Code section 235B.3; 441 IAC 176.3(235B) through 176.6(235B); 176.8(235B)

The Abuse Hotline accepts calls at any time and then forwards them to the service area’s centralized intake unit. The Abuse Hotline number is: 1-800-362-2178.

Centralized intake at the Department consists of eight intake centers that accept calls during regular working hours. The numbers are:

<b><u>Service Area</u></b>	<b><u>Intake Phone Nos.</u></b>	<b><u>Service Area</u></b>	<b><u>Intake Phone Nos.</u></b>
Ames	866-474-5366 Local – 268-7000	Des Moines	515-283-9110
Cedar Rapids	319-892-5055	Dubuque	888-583-1039 Local – 583-1039
Council Bluffs	877-683-0323	Sioux City	712-255-2699
Davenport	888-270-3864	Waterloo	319-291-2441



## **Source of Reports**

**Legal reference:** Iowa Code Chapter 235B.3; 441 IAC 176.3-6; 176.8

The Department may receive initial inquiries from:

- ◆ Law enforcement,
- ◆ Service agencies,
- ◆ Directly from a person requesting assistance, or
- ◆ Any concerned party in the general public.

This section is divided into the following categories:

- ◆ [Mandatory reporters](#)
- ◆ [Permissive reporters](#)
- ◆ [Mandatory reporters who are reporting permissively](#)

### **Mandatory Reporters**

**Legal reference:** Iowa Code Chapter 235B.3(2); 2008 Iowa Acts, HF 2591

Persons who in the course of employment examine, attend, counsel, or treat dependent adults are mandated to report suspected abuse. Mandated reporters do not need to obtain evidence of abuse to make a report, but only have to “reasonably believe a dependent adult has suffered abuse.” Mandatory reporters include the following:

- ◆ A peace officer.
- ◆ An in-home homemaker home-health aide.
- ◆ An outreach person.
- ◆ A health practitioner, including a:
  - Licensed physician and surgeon, osteopath, osteopathic physician and surgeon, dentist, optometrist, podiatric physician, or chiropractor;
  - Resident or intern in any such professions;
  - Licensed dental hygienist;
  - Registered nurse or licensed practical nurse;
  - Physician assistant; and
  - Certified emergency medical care provider.



- ♦ **Harassment** means a person purposefully and without legitimate purpose has personal contact with another person with the intent to threaten, intimidate, or alarm that other person. (Iowa Code section 708.7.1)
- ♦ **Duress** means, broadly, a threat of harm made to compel a person to do something against the person's will or judgment; especially a wrongful threat made by one person to compel a manifestation of seeming assent by another person to a transaction without real volition. (*Black's Law Dictionary*, Eighth Edition, West Group, 2004)
- ♦ **Deception** means the following:
  - Creating or confirming another's belief or impression as to the existence or nonexistence of a fact or condition which is false and which the actor does not believe to be true;
  - Failing to correct a false belief or impression as to the existence or nonexistence of a fact or condition which the actor previously has created or confirmed;
  - Preventing another from acquiring information pertinent to the disposition of the property involved in any commercial or noncommercial transaction or transfer;
  - Selling or otherwise transferring or encumbering property and failing to disclose a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether such impediment is or is not valid, or is or is not a matter of official record; and
  - Promising payment, delivery of goods, or other performance which the actor does not intend to perform or knows the actor will not be able to perform. (Iowa Code section 702.9)
- ♦ **False representation** means someone making a false statement, such as to identity or authority over someone or something, with the intent to defraud or to induce a person to act to the person's injury or damage. (*Black's Law Dictionary*, Seventh Edition, West Group, 1999)
- ♦ **False pretenses** means making a claim that is not supported by fact. (*Black's Law Dictionary*, Seventh Edition, West Group, 1999)

**Sexual abuse** means the commission of a sexual offense under Iowa Code Chapter 709 or Iowa Code section 726.2 with or against a dependent adult. Sexual abuse includes the following subcategories:



- ◆ First-degree sexual abuse (Iowa Code section 709.2)
- ◆ Second-degree sexual abuse (Iowa Code section 709.3)
- ◆ Third-degree sexual abuse (Iowa Code section 709.4)
- ◆ Detention in a brothel (Iowa Code section 709.7)
- ◆ Indecent exposure (Iowa Code section 709.9)
- ◆ Assault with intent to commit sexual abuse (Iowa Code section 709.11)
- ◆ Sexual exploitation by a counselor or therapist (Iowa Code section 709.15)
- ◆ Invasion of privacy, nudity (Iowa Code section 709.15)
- ◆ Incest (Iowa Code section 726.2)

**Sexual exploitation of a dependent adult by a caretaker** means any consensual or nonconsensual sexual conduct with a dependent adult for the purpose of arousing or satisfying the sexual desires of the caretaker or dependent adult, which includes but is not limited to kissing; touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act, as defined in section 702.17.

Sexual exploitation does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch or hug between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses.

### **Making Reasonable Inferences**

Reasonable inferences can be made when assessing whether or not a report is dependent adult abuse.

1. A reporter states he was driving down a street and saw an older woman being dragged out of her wheelchair onto the sidewalk. The woman was screaming. The reporter does not have to indicate specific injuries for you to reasonably infer the activity described is an allegation of assault or physical abuse.
2. A reporter states that a woman who is severely retarded and a resident of a skilled care facility has a sexually transmitted disease. You may reasonably infer the woman is the victim of sexual abuse.
3. A reporter states that a man who is paralyzed from the neck down and bed-bound is left alone for up to six hours a day. You may reasonably infer this man is at risk of harm and, therefore, the situation as described is an allegation of denial of critical care due to lack of adequate supervision.



When it is necessary to conduct an in-depth intake, contact the mandatory reporter or collateral sources as soon as possible, so the assigned worker can meet the 1-hour and 24-hour timeframes.

Only persons who qualify as mandatory reporters or the person making the report may be contacted as collateral sources during the intake process to expand or to clarify information in the report. Do **not contact** subjects of the report or persons who are **not** mandatory reporters, because that would move the intake into the evaluation or assessment process.

### **Intake on Dependent Adults Who Have Died**

If it is reported there is a suspicion a dependent adult has died as a result of actions the dependent adult did or did not take, do **not** accept the referral.

If it is reported there is a suspicion a dependent adult has died as a result of actions a caretaker did or did not take, accept the referral. If a caretaker is suspected of having financially exploited a dependent adult who has died, accept the referral.

Remind mandatory reporters to notify law enforcement. If the reporter is not a mandatory reporter, suggest the reporter contact law enforcement.

### **Facilities and Programs Where DIA Evaluates Allegations**

**Legal reference:** 2008 Iowa Acts, House File 2591

The Iowa Department of Inspections and Appeals (DIA) is responsible for the evaluation and disposition of dependent adult abuse reports within the following facilities when facility or program staff or employees are alleged persons responsible for the abuse:

- ◆ Health care facilities licensed under Iowa Code Chapter 135C, which include:
  - Residential care facilities (RCFs)
  - Nursing facilities
  - Intermediate care facilities for the mentally retarded (ICFs/MR)
  - Intermediate care facilities for the mentally ill (ICFs/MI)
- ◆ Hospitals (as defined in Iowa Code 135B)
- ◆ Elder group homes (as defined in Iowa Code Chapter 231B)
- ◆ Assisted living programs (certified under Iowa Code Chapter 231C)
- ◆ Adult day services programs (as defined in Iowa Code Chapter 231D)



Forward a referral of alleged dependent adult abuse by a staff member of one of these facilities immediately (as soon as is practicable) to the DIA staff person who evaluates allegations of dependent adult abuse for the area. (DIA can be contacted at 1-877-686-0027.) **Do not complete an intake on the allegation.** DIA will complete the intake.

Possible situations and the appropriate responses are summarized in the following chart and are explained in more detail in the following sections.

Situation	Action
When a DIA-evaluated referral is received during working hours (8:00 AM – 4:30 PM, Monday – Friday)...	Refer the caller immediately to the DIA at 1-877-686-0027. Do not complete an intake on the referral.
When a DIA-evaluated referral is received after hours or on a weekend or holiday...	Complete an intake on the referral. Follow instructions under <a href="#">Allegations Received After Hours or on Weekends or Holidays</a> .
When a referral is not determined to involve a DIA facility or program until after intake is completed...	Fax the completed intake to DIA at 515-281-7106 as soon as possible.
When the referral is on an alleged perpetrator who is not a facility or program staff member...	Complete an intake and handle like any other case.

### **Allegations in DHS-Operated Facilities**

DIA is responsible for evaluation of dependent adult abuse reports on patients in the following DHS-operated facilities when employees are the persons alleged responsible for the abuse:

- ◆ Cherokee Mental Health Institute
- ◆ Clarinda Mental Health Institute
- ◆ Independence Mental Health Institute
- ◆ Mount Pleasant Mental Health Institute
- ◆ Glenwood Resource Center
- ◆ Woodward Resource Center

Immediately forward allegations of dependent adult abuse by a staff member of one of these facilities to the DIA as described above.



### **Determining if a Facility Is Licensed by DIA**

To find out if a program, agency, or facility is licensed by DIA under Iowa Code Chapter 135C, go <https://www.state.ia.us/government/dia/index.html>, the DIA facility web site. Scroll down and click on "Health Facilities." Then scroll down and under "Facilities Web Site," click on "clicking here."

When you have this site, click on "entity search" on the left side of the page. Type in the name of the facility you are inquiring about in "Entity Name." Enter the name of the city in "Entity City." Click "Search." If the facility or agency is listed, DIA has responsibility for evaluating dependent adult abuse for that agency.

The DIA is solely responsible for the evaluation and disposition of dependent adult abuse reports in health care facilities and the programs listed above except as noted under [DHS Responsibilities for Allegations in Facilities Where DIA Evaluates](#) and [Allegations Received After Hours or on Weekends or Holidays](#).

When you determine the report is on a dependent adult in a health care facility or program listed and is not one of the exceptions listed, refer the caller immediately (as soon as practicable) to the DIA. (DIA can be contacted at 1-877-686-0027.)

### **Allegations Received After Hours or on Weekends or Holidays**

**Legal reference:** 441 IAC 176.7(2)

When a referral is made after 4:30 PM Monday through Friday or on weekends or holidays alleging abuse of a dependent adult by staff of a health care facility, an elder group home, an assisted living program, or an adult day services program, DHS will assess the immediate threat to the physical safety of the resident. DIA will complete the evaluation of abuse.

Complete an intake on form 470-0657, *Dependent Adult Abuse Intake*. Your supervisor will reject it after you forward the information to DIA. If it appears the victim is at risk of immediate danger to health or safety, contact local law enforcement for assistance. Get the intake information to the worker on duty as soon as possible. Instructions for the worker on duty are in 16-G, [Evaluation and Assessment Process](#).

For instructions on how to proceed with assessing the immediate threat to the safety of a resident after DIA regular working hours, see 16-G-Appendix, [Comm. 195, Facility, Agency, and Program Evaluation Handbook](#).



### **DHS Responsibilities for Allegations in Facilities Where DIA Evaluates**

**Legal reference:** Iowa Code sections 235B.3(1), 135C.1(5); 231B.1; 231C.1; 231D.1; 441 IAC 176.6(1)

Department staff are responsible for evaluating alleged abuse of a dependent adult who resides in a health care facility or an elder group home or participates in an assisted living program or adult day services program when:

- ◆ The person alleged responsible for the abuse is not a staff member of the facility or program. This includes an allegation of financial exploitation when someone outside the facility or program has control of the dependent adult's finances.
- ◆ The alleged abuse occurred when the dependent adult was out of the facility with a caretaker other than facility staff.

In such cases, complete an intake of the allegation of dependent adult abuse of a resident of a health care facility or program as you would any other report of dependent adult abuse in the community.

### **Case Assignment**

**Legal reference:** Iowa Code section 235B.3

Once it is determined that a report constitutes an allegation of dependent adult abuse, the case will be assigned for evaluation or assessment. The protective services unit that serves the county where the dependent adult's home is located has primary responsibility for completing the dependent adult abuse evaluation or assessment.

If a dependent adult is in a placement and is alleged to have been abused in that placement, the protective services unit that serves the county where the dependent adult lives or is placed has responsibility for completing the evaluation or assessment. The following chart will clarify jurisdictional issues:

<b>If the dependent adult resides:</b>	<b>And the alleged abuse occurred:</b>	<b>The county with jurisdiction is:</b>
At home	In the home	The home county
At home	In former placement	The home county
With relatives	At the relative's home	The relative's county
In placement	At home	The placement county
In placement	In that placement	The placement county
In placement	In a former placement	The placement county
In placement	At camp or vacation	The placement county